Revised Addendum
to the
National Pollutant Discharge Elimination System
Memorandum of Agreement
Between the
State of Indiana
and the
United States Environmental Protection Agency
Region 5
Concerning Indiana's Great Lakes Water Quality Standards
and Implementation Procedures Rulemaking

This revised MOA reflects changes to Indiana's program since the signing of the original MOA, signed by the Region V Administrator on July 28, 2000.

The federal Water Quality Guidance for the Great Lakes System (federal guidance), 40 CFR Part 132, contains the minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes system to protect human health, aquatic life, and wildlife. The Great Lakes states and tribes were required to adopt provisions consistent with (as protective as) the federal guidance for their waters within the Great Lakes system. The Indiana Water Pollution Control Board adopted Great Lakes system water quality standards and implementation procedures on December 16, 1996, and these rules became effective on February 13, 1997.

On October 13, 2004 the Indiana Water Pollution Control Board adopted amendments to many of the rules that were the subject of this MOA. Those amendments have been approved by US EPA as revisions to Indiana's approved NPDES permitting program. This revised MOA reflects those changes.

The United States Environmental Protection Agency Region 5 (EPA) and the Indiana Department of Environmental Management (IDEM) enter into this Addendum to their National Pollutant Discharge Elimination System (NPDES) Memorandum of Agreement to ensure that Indiana's rules concerning Great Lakes system water quality standards and implementation procedures at 327 IAC 2-1.5 and 327 IAC 5-2 are implemented in a manner that is consistent with the federal guidance.

The duties in this Addendum only apply to those portions of Indiana's NPDES program applicable to the Great Lakes system within Indiana.

Chemical Specific Reasonable Potential Implementation Procedures

A. Development of Preliminary Effluent Limitations

327 IAC 5-2-11.5(b)(1) allows IDEM to exercise best professional judgment, taking into account the source and nature of the discharge, existing controls on point and nonpoint

sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, and, where appropriate, the dilution of the effluent in the receiving water, in determining whether to develop preliminary effluent limitations (PELs). To ensure that IDEM's exercise of best professional judgment in determining whether to develop PELs pursuant to 327 IAC 5-2-11.5(b)(1) is as protective of water quality as 40 CFR Part 132, Appendix F, Procedure 5, IDEM and EPA agree as follows:

1. IDEM agrees always to develop a PEL when it is necessary to conduct a reasonable potential analysis to determine if a water quality-based effluent limitation is needed. IDEM uses two computer modeling programs to calculate WQBELs (or PELs), one for dissolved oxygen and ammonia and one for Tier I and Tier II criteria. IDEM always determines PELs for these pollutants or pollutant parameters. Regardless, IDEM reserves the right to exercise best professional judgment not to develop a PEL only when it can determine without use of the reasonable potential procedure that a discharge will not cause or contribute to a violation of a water quality standard.

2. When IDEM exercises best professional judgment to not develop a PEL, IDEM shall explain with specificity in the permit fact sheet the basis for its decision. When IDEM submits the draft permit and fact sheet to EPA for review, IDEM shall specifically note to EPA that IDEM exercised best professional judgment to not develop a PEL, and that the reason for the determination is explained in the fact sheet.

3. If EPA determines that IDEM's exercise of best professional judgment to not develop a PEL is not consistent with the requirements of 40 CFR Part 132, Appendix F, Procedure 5, EPA may object to the issuance of the permit as being outside the guidelines and requirements of 40 CFR Part 132, Appendix F, Procedure 5 and the Federal Water Pollution Control Act. If EPA determines that IDEM's determination not to develop a PEL is consistent with 40 CFR Part 132, Appendix F, Procedure 5, EPA will not object to the issuance of the permit based solely on the grounds that IDEM exercised best professional judgment to not develop a PEL.

B. Intake Pollutants - Combined Wastestreams

327 IAC 5-2-11.5(b)(4)(C)(ii) and (g)(6) contain provisions for combined wastestreams consisting of both intake water and process wastewater (combined wastestreams provisions). The federal guidance contains no similar provisions. To ensure that 327 IAC 5-2-11.5(b)(4)(C)(ii) and (g)(6) are implemented in a manner consistent with 40 CFR Part 132, Appendix F, Procedure 5, IDEM and EPA agree as follows:

1. The combined wastestream provisions at 327 IAC 5-2-11.5(b)(4)(C)(ii) and (g)(6) do not allow discharge of a greater amount of pollutants than would be allowed under the federal guidance provisions applicable to the entire wastestream. IDEM will interpret and apply 327 IAC 5-2-11.5(b)(4)(C)(ii) and (g)(6) as allowing the state flexibility to consider each wastestream separately in determining the most effective way to establish water quality controls (e.g., monitoring points), but not as a means to impose less stringent

controls on the discharge than would otherwise apply. In cases where one of the wastestreams consists of storm water, the provisions at 327 IAC 5-2-11.5(b)(4)(C)(ii)(BB) and (g)(6)(A), which state that "[t]he requirements imposed shall be as if the storm water wastestream discharged directly into the receiving waterbody and shall be consistent with requirements imposed on other similar storm water discharges to the waterbody," will be interpreted to require controls for internal storm water wastestreams that mix with process wastestreams before discharge consistent with controls imposed on direct discharges of storm water mixed with process water before discharge.

2. When issuing permits, IDEM shall make a combined wastestream determination in accordance with its rules as explained in its demonstration. When IDEM makes a decision in a permit involving its combined wastestream provisions, IDEM shall explain with specificity in the permit fact sheet the basis for its decision. When IDEM submits the draft permit and fact sheet to EPA for review, IDEM shall specifically note to EPA its combined wastestream determination, and that the reason for the determination is explained in the fact sheet.

3. If EPA determines that IDEM's combined wastestream decision is not consistent with 40 CFR Part 132, Appendix F, Procedure 5, EPA may object to the issuance of the permit as being outside the guidelines and requirements of 40 CFR Part 132, Appendix F, Procedure 5 and the Federal Water Pollution Control Act. If EPA determines that IDEM's combined wastestream decision is consistent with the requirements of 40 CFR Part 132, Appendix F, Procedure 5, EPA will not object to issuance of the permit based solely on the grounds that IDEM used its combined wastestream provisions.

C. Intake Pollutants - Noncontact Cooling Water

327 IAC 5-2-11.5(g) contains provisions concerning issuance of water quality-based effluent limitations for once-through noncontact cooling water discharges. To ensure that 327 IAC 5-2-11.5(g) is implemented in a manner consistent with 40 CFR Part 132, Appendix F, Procedure 5, IDEM and EPA agree as follows:

1. 327 IAC 5-2-11.5(g)(1) states that IDEM may require a water quality-based effluent limitation based on an acute aquatic criterion for a substance or acute whole effluent toxicity when information is available to indicate that such a limit is necessary to protect aquatic life, unless the substance or whole effluent toxicity is due solely to its presence in the intake water. 40 CFR Part 132, Appendix F, Procedure 5 requires a water quality-based effluent limitation in all cases when a limit is necessary to protect aquatic life, wildlife, or human health water quality standards, unless the discharge qualifies under the intake pollutant provisions in 40 CFR Part 132, Appendix F, Procedure 5, Paragraphs D and E. To ensure that IDEM always issues water quality-based effluent limitations unless the substance or whole effluent toxicity is due solely to its presence in the intake water:

IDEM shall exercise its discretion in 327 IAC 5-2-11.5(g)(1) to always require a

water quality-based effluent limitation based on an acute aquatic criterion for a substance or acute whole effluent toxicity when information is available indicating that such a limit is necessary to protect aquatic life unless the substance or whole effluent toxicity is due solely to its presence in the intake water.

2. 327 IAC 5-2-11.5(g)(3) states that if a substance is present at elevated levels in the noncontact cooling water wastestream due to improper operation and maintenance of the cooling system, the wastestream must be evaluated under the reasonable potential procedures in 327 IAC 5-2-11.5(b). IDEM considers pollutants added to the wastestream as a result of corrosion and erosion to be "elevated levels due to improper operation and maintenance," and shall evaluate a wastestream under 327 IAC 5-2-11.5(b) if a pollutant is present at elevated levels due to corrosion and erosion.

3. While 327 IAC 5-2-11.5(g)(1) only expressly applies to water quality-based effluent limitations based on acute aquatic life criteria and acute whole effluent toxicity, 327 IAC 5-2-11.5(g)(2) through 327 IAC 5-2-11.5(g)(6) authorize IDEM to undertake a reasonable potential analysis and issue water quality-based effluent limitations based on other criteria and standards. IDEM shall issue water-quality based effluent limitations based on an acute or chronic aquatic life, wildlife or human health criterion whenever information is available to indicate that the discharge causes, or has the reasonable potential to cause an exceedance of the criterion or standards.

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

By: _____

Thomas W. Easterly
Commissioner

Date: 3/10/2006

U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 5

By: _____

Thomas V. Skinner
Regional Administrator

Date: 3-2-06